



# NEWS

**Federal Communications Commission**  
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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.  
See *MCI v. FCC*, 515 F.2d 385 (D.C. Cir. 1974).

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**FOR IMMEDIATE RELEASE**  
May 14, 2004

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## **COMMISSION AFFIRMS FORFEITURE AGAINST ENTERCOM FOR VIOLATIONS OF INDECENCY RULE**

**Washington, D.C.** - Today, the Commission denied an Application for Review filed by Entercom Seattle License, LLC, licensee of Station KNDD(FM), Seattle, Washington. Entercom sought review of a *Forfeiture Order* imposing a penalty of \$12,000 for willful and repeated broadcasts of indecent material during the "Andy Savage Show."

The Commission's Enforcement Bureau had imposed the \$12,000 forfeiture after rejecting Entercom's arguments that the material at issue did not meet the indecency definition, and that the Commission's indecency definition is unconstitutional. Entercom then filed the Application for Review, requesting that the Commission rescind the forfeiture, based upon these same arguments. The Commission affirmed the Bureau's decision in all respects.

Action by the Commission, April 8, 2004, Memorandum Opinion and Order (FCC 04-89). Chairman Powell and Commissioners Abernathy, Martin and Adelstein. Commissioner Martin issuing a statement. Commissioner Copps dissenting and issuing a statement.

Enforcement Bureau contact: Janice Wise at (202) 418-8165.

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**DISSENTING STATEMENT OF  
COMMISSIONER MICHAEL J. COPPS**

*Re: Entercom Seattle License, LLC, Licensee of Station KNDD(FM), Seattle, Washington,  
Memorandum Opinion and Order*

I dissent from today's decision upholding an Enforcement Bureau decision that I believe is inadequate. In response to complaints about two separate broadcasts on KNDD, the Enforcement Bureau proposed a forfeiture of \$7000 for each incident of airing indecent material. In a subsequent order, the Bureau reduced the fine for each broadcast by \$1000. I am concerned that this fine for what the majority concludes is a violation of the indecency statute will be easily absorbed as a "cost of doing business." I am further troubled that the Bureau, rather than the Commissioners, made the initial determination. Our enforcement actions should send a message that licensees cannot ignore their public interest responsibilities. The Commission's action today fails to do so.

**STATEMENT OF  
COMMISSIONER KEVIN J. MARTIN**

*Re: Entercom Seattle License, LLC, Licensee of Station KNDD(FM), Seattle, WA,  
Memorandum Opinion and Order*

Consistent with my past statements, I believe we should be fining broadcasters on a “per utterance” basis.<sup>1</sup>

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<sup>1</sup> See, e.g., Separate Statement of Commissioner Martin, *Infinity Broadcasting Operations, Inc., Licensee of Station WKRK-FM, Detroit, Michigan*, Notice of Apparent Liability, 18 FCC Rcd. 6915, 6939 (2003) (urging the Commission to fine violators “per utterance”).